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Agenda item 39

THE SITUATION IN BOSNIA AND HERZEGOVINA

Report of the Secretary-General

1. The present report is submitted pursuant to paragraph 28 of General Assembly resolution 49/10 of 3 November 1994.

I. SAFE AREAS

2. The General Assembly, in paragraph 4 of its resolution 49/10, urged the Secretary-General to direct the United Nations Protection Force (UNPROFOR) to take necessary measures, in accordance with relevant Security Council resolutions, for the protection of the safe areas.

3. Several reports submitted to the Security Council in the course of the year have dealt with the safe areas. These include S/1994/291 and Corr.1 of 10 March 1994; S/1994/300 of 16 March 1994; and S/1994/555 of 9 May 1994. A report specifically dealing with the safe areas was submitted to the Security Council on 1 December 1994 (S/1994/1389).

II. RETURN OF REFUGEES AND DISPLACED PERSONS

4. In paragraph 9 of the resolution, the General Assembly requested the Office of the United Nations High Commissioner for Refugees (UNHCR) and other relevant United Nations bodies to facilitate the return of refugees and displaced persons.

5. While several thousand persons have returned to their homes, large-scale return requires an end to the conflict and a resolution of the underlying cause of displacement. Pending this, UNHCR will continue to facilitate the voluntary return of those persons who can return in safety and dignity. UNPROFOR has also

been assisting the efforts of UNHCR through its activities aimed at the creation of conditions for the normalization of life.

III. CULTURAL EXCHANGES AND COMMUNICATIONS SYSTEM

6. In paragraph 10 of the resolution, the General Assembly urged UNHCR, as part of its humanitarian assistance programme, to provide appropriate assistance to facilitate cultural exchanges between Sarajevo and other parts of Bosnia and Herzegovina and the international community and to facilitate the delivery and installation of a reliable communications system in Sarajevo for the use of the civilian population.

7. UNHCR is cooperating closely with the United Nations Educational, Scientific and Cultural Organization (UNESCO), which has opened an office in Sarajevo, and is assisting in cultural exchanges to the extent that restrictions on freedom of movement allow. In addition, although the resolution mentions only UNHCR, it should be noted that UNPROFOR and the Special Coordinator for Sarajevo are also assisting in the cultural exchange and the improvement of the communications system.

8. The UNESCO representative to Bosnia and Herzegovina has closely cooperated with the Office of the Special Coordinator, and is responsible for education and culture within the framework of the Coordination Committee set up under the Special Coordinator, according to the Action Plan for the Restoration of Sarajevo. UNPROFOR has been assisting the movement by air of a number of delegations of the Government of Bosnia and Herzegovina, including cultural delegations, on the basis of Security Council resolution 900 (1994). An example of this is the Sarajevo Philharmonic Orchestra which, with the help of UNPROFOR, was able to undertake a tour to Italy in November 1994. However, since the demand made by the Bosnian Serb authorities for the strict application of the Sarajevo Airport Agreement of 5 June 1992, the number of delegations has been limited, so as not to undermine the framework of the Agreement essential for the humanitarian airlift.

9. As for the communications system, there are currently approximately 400 international lines from Sarajevo as opposed to only a few 18 months ago. The Government of Sweden, in the framework of the Action Plan for Sarajevo, is planning to provide an additional 480 lines in the spring of 1995. The delivery and installation of such equipment is contingent upon access to the city.

10. In more general terms, the questions raised in paragraph 10 of the resolution relate to conditions for access to Sarajevo, which depends upon the consent of the parties, particularly of the Bosnian Serbs controlling the main access routes. In this regard, immediately after the adoption of Security Council resolution 900 (1994), UNPROFOR mediated the signing on 17 March 1994 of an agreement between the Government of Bosnia and Herzegovina and the Bosnian Serb party on freedom of movement in the Sarajevo area, which brought a major improvement in living conditions to all the citizens of Sarajevo. Since the agreement on the airport routes was suspended by the Bosnian Serbs on 26 July 1994, UNPROFOR has been negotiating their reopening.

IV. OPENING OF THE TUZLA AIRPORT

11. In paragraph 17 of the resolution, the General Assembly again urged the Secretary-General to take immediate action to reopen the Tuzla airport, aware of the importance of that airport in facilitating the receipt and distribution of international humanitarian aid.

12. The essential information on this question is contained in the report of the Secretary-General on the renewal of the UNPROFOR mandate (S/1994/1067, para. 22). UNPROFOR will continue its effort to reopen Tuzla airport for its own use and for humanitarian purposes. It should be noted that, while in paragraph 17 of resolution 49/10 the Assembly urged the Secretary-General to take immediate action with reference to Security Council resolution 770 (1992), the Tuzla airport cannot be safely used if its opening is achieved by force. It must therefore be opened through negotiations with the parties. Such negotiations will in turn be dependent upon the overall military situation and the political atmosphere prevailing in Bosnia and Herzegovina. It should also be noted that UNHCR believes that it can, for the present, deliver adequate supplies to the Tuzla region by road.

V. HUMANITARIAN ASSISTANCE AND UTILITIES IN THE SAFE AREAS

13. In paragraph 18 of the resolution, the General Assembly demanded that all concerned facilitate the unhindered flow of humanitarian assistance, including the provision of water, electricity, fuel and communication, in particular to the safe areas in Bosnia and Herzegovina. Humanitarian access and essential services continue to be intermittently denied to several safe areas. In particular, humanitarian access to the Bihac enclave has been obstructed since May 1994 and this, combined with the effects of fighting, has placed the civilian population in the enclave in a desperate position. The Action Plan for Sarajevo of the Special Coordinator contains many projects to restore essential services such as water, electricity and gas. The main impediments to the provision of humanitarian assistance continue to be road access and the overall security situation. The reports to the Security Council on the safe areas (see para. 3 above), contain further information on the delivery of humanitarian assistance.

VI. ACCESS OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS TO DETENTION CAMPS

14. Since the beginning of the conflict in Bosnia and Herzegovina, delegates of the International Committee of the Red Cross (ICRC) have visited about 34,000 detainees in 146 places of detention, and 8,825 detainees have been released under ICRC auspices, including some 1,550 following the establishment of the Federation of Bosnia and Herzegovina. As at 20 November 1994, some 840 detainees held by the Government of Bosnia and Herzegovina and 570 held by Bosnian Serbs had been visited by ICRC.

15. The International Committee of the Red Cross has regularly requested access to all detainees held by the parties to the conflict. At present, ICRC is not

in a position to state that it has been granted access to all of them since it has never regularly been notified of new captures.

16. Regarding the decision to close camps, ICRC is not in a position to answer a question which should be dealt with by the parties to the conflict themselves. Generally speaking, however, ICRC can state that a few camps were emptied in the Banja Luka region in 1992 (particularly Trnopolje and Manjaca) and in Herzegovina after the creation of the Federation of Bosnia and Herzegovina (Dretelj, at the end of September 1993; Gabela, in December 1993; and Rodoc, in April 1994).

17. In the Federal Republic of Yugoslavia (Serbia and Montenegro), ICRC has been granted access to security detainees since 1990. In 1994, delegates visited 12 places of detention, including 1 in Montenegro and 11 in Serbia (6 in Kosovo).

18. Given the extension of the conflict, ICRC hopes to continue receiving the necessary facilities to obtain access to all newly captured persons. It highly appreciates all the support that the international community can give to its humanitarian activities.

VII. INTERNATIONAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

19. The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia has submitted its fist annual report (A/49/342-S/1994/1007), covering the period from 17 November 1993 to 28 July 1994. It describes the work done by the Tribunal, and the main practical, financial and structural difficulties it encountered during the period under review.

20. The groundwork for the initiation of criminal proceedings was laid down by the judges in an elaborated mini-code of international criminal procedure, comprising rules of procedure and evidence, rules governing the detention of persons awaiting trial or appeal before the Tribunal or otherwise detained on the authority of the tribunal (rules of detention), and a directive governing the procedure for assignment of defence counsel.

21. With the appointment of a Prosecutor to the Tribunal, the Office of the Prosecutor, responsible for the conduct of investigations and prosecutions, was able to complete some of the major investigations and submit its first indictment. In early November, the Prosecutor issued an indictment involving charges of grave breaches of the Geneva Conventions, violations of the laws and customs of war and crimes against humanity. The indictment was confirmed by the reviewing judge and warrants of arrest were issued to the relevant national authorities. In addition, an application for deferral of a case now pending before the German authorities was filed by the Prosecutor and a request for deferral was accordingly issued by the Trial Chamber.

22. The construction of a detention unit within the prison facilities at The Hague has been accomplished. Conditions of detention of accused held

pending and during trial are governed by the rules of detention, and are under the control and supervision of the Tribunal.

23. Unlike detention on remand pending trial or appeal, it is not envisaged that enforcement of sentences will be carried out in the Netherlands, or at least not solely there. Pursuant to article 27 of the Statute of the Tribunal, the Secretary-General has requested States to indicate their willingness to accept convicted persons in their national prisons. The responses so far received from States have all been negative.

24. A report on the financial performance, containing revised estimates of the requirements for the biennium 1994-1995, has been submitted by the Tribunal, which has been so far operating under a commitment authority not exceeding $11 million until 31 December 1994, pending a General Assembly decision on the mode of financing. The budget of the Tribunal is to be considered during the current session of the General Assembly.

VIII. INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

25. The International Conference on the Former Yugoslavia continues to deploy its best endeavours for a solution to the conflict in Bosnia and Herzegovina. The Co-Chairmen of the Steering Committee of the Conference negotiated the establishment of the Conference's Mission to the Federal Republic of Yugoslavia (Serbia and Montenegro), which assists in the implementation of the border closure towards the Bosnian Serbs ordered on 4 August 1994 by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro). Reference is made in this regard to the reports on the establishment and operations of the Mission submitted to the Security Council (S/1994/1074; S/1994/1124; S/1994/1246; S/1994/1372).

26. The Co-Chairmen of the Steering Committee have also been active in regard to other aspects of the situation in the former Yugoslavia that have a bearing on the situation in Bosnia and Herzegovina. With a view to helping improve the relations between Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), the Co-Chairmen used their good offices to arrange meetings between the Foreign Ministers of the two countries. The first such meeting took place at Zagreb on 4 November. The next meeting is to be held at Belgrade, meetings thereafter alternating between their capitals.

27. The Co-Chairmen have also sought to promote better relations between the Government of Croatia and the Croatian Serbs. In follow-up to the Cease-fire Agreement of 29 March 1994, brokered by the Conference, which brought to an end several months of active hostilities between the two sides, the Co-Chairmen and Conference negotiators worked painstakingly for an agreement on economic issues. After three long and detailed meetings in November, two in the UNPROFOR Camp Pleso at Zagreb and one at Knin, an economic agreement was worked out with, and submitted to, the two sides on 16 November. The agreement was subsequently signed by the two sides on 2 December 1994, as reported to the Security Council (see S/1994/1375).

28. The Co-Chairmen have sought to promote discussion of ideas for a political settlement to the conflict in Croatia. With respect to the situation in Kosovo, the Co-Chairmen have consulted President Milosevic and Mr. Rugova and presented certain ideas to them aiming at negotiated solutions within the framework of the Federal Republic of Yugoslavia (Serbia and Montenegro). As regards the situation in the former Yugoslav Republic of Macedonia, the Conference assisted in the organization and conduct of the population census that preceded the general elections held there earlier this year. Conference personnel lent their good offices in defusing problems that arose prior to the elections and are continuing to provide their good offices for the promotion of smooth relations among the various groups and political formations.

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Forty-ninth session
Agenda items 11 and 33
REPORT OF THE SECURITY COUNCIL
QUESTION OF EQUITABLE REPRESENTATION
ON AND INCREASE IN THE MEMBERSHIP
OF THE SECURITY COUNCIL AND
RELATED MATTERS

SECURITY COUNCIL
Forty-ninth year

Note verbale dated 6 December 1994 from the Permanent Representative of Brazil to the United Nations addressed to the Secretary-General

I have the honour to refer to the letter dated 9 November 1994 from the Permanent Representative of France to the United Nations addressed to the Secretary-General (A/49/667-S/1994/1279), annexed to which he submits an aide-mémoire expressing the views of his Government on the desirability of increased reliance on public debates by the Security Council in reaching its decisions.

Brazil supports this suggestion, which is consistent with the views expressed by my delegation on many occasions on the need to increase the transparency and accountability of the Security Council. We refer in particular to our statements made during the debates on agenda items 11 and 33 at the current session of the General Assembly, as well as in the Working Group of the Security Council on the Council's documentation and other procedural questions and in the Open-ended Working Group to consider all aspects of the question of increase of membership of the Security Council, and other matters related to the Security Council.

As to the frequency and modalities for more public meetings, Brazil believes that occasions such as at the initial consideration of important reports of the Secretary-General or those before the establishment or termination of peace-keeping operations warrant open and full-fledged deliberations before the membership of the Organization.

At the same time, Brazil believes that the provisional rules of procedure of the Security Council should be updated, in order, inter alia, to take into account the status of informal consultations, the legal existence of which has yet to be acknowledged properly.

My delegation looks forward to discussing this issue further in the relevant bodies.

I should be grateful if you would circulate the present note verbale as a document of the General Assembly, under agenda items 11 and 33, and of the Security Council.

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GENERAL ASSEMBLY
Forty-ninth session
Agenda item 62
GENERAL AND COMPLETE DISARMAMENT

SECURITY COUNCIL
Forty-ninth year

Letter dated 5 December 1994 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General

You are not unaware that the information media reported a few days ago that the United States of America had transferred 600 kilogrammes of radioactive uranium ready to be used in nuclear-weapons manufacture from Kazakhstan to a nuclear facility in Tennessee, and that American officials stated that the operation had taken place in the greatest secrecy.

In this connection, I wish to state that the Libyan Arab Jamahiriya is deeply concerned at the negative effects this operation could have on the efforts made by the international community to ensure, through appropriate solutions, the non-proliferation of nuclear weapons. I wish also to state that this operation is an example of manifest contradictions in the policy pursued by the United States of America in the sphere of disarmament. The United States falsely asserts that it is attached to the non-proliferation of nuclear weapons, whereas this operation bears witness to a frantic desire to stockpile such weapons and control their production, indeed to hold the monopoly in this area.

The contradictions of the United States policy in the fields of disarmament and non-proliferation of nuclear weapons is apparent from the political and economic pressure brought to bear by the United States and from the terrorist policy it pursues in respect of countries whose only ambition is to use nuclear energy for peaceful purposes, whereas the United States, for its part, is seeking to monopolize it.

There is no guarantee that the materials transported to the United States or other materials of the same kind will not be transferred to another location. There is even a real risk that they may show up in Israel, whose links with the United States in respect of cooperation in the sphere of armaments are extremely close and which is not subject to any restriction imposed by the United States with respect to the production and stockpiling of nuclear weapons.

This contradiction in United States policy will negatively affect the efforts made by the international community to put an end to the proliferation of nuclear weapons, in particular the efforts to prolong the Treaty on the Non-Proliferation of Nuclear Weapons after 1995, and will compromise the chances of creating zones free of nuclear weapons and other weapons of mass destruction.

The Libyan Arab Jamahiriya urges the international community to recognize the negative effects this operation could have and the contradictory nature of United States policy.

I should be grateful if you would have the text of this letter circulated as a document of the General Assembly, under agenda item 42, and of the Security Council.

(Signed) Mohamed A. AINAI
Permanent Representative